PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)*	19 MAY 2005
Applicant's or agent's file reference 11-275PCT	**FOR FURTHER ACTION** See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/NZ2005/000018	16 February 2005	18 February 2004

International Patent Classification (IPC) or both national classification and IPC
Int. Cl. [7] E05C 1/16, E05C 17/48, E05B 47/00

Applicant
ASSA ABLOY NEW ZEALAND LIMITED et al

1. This opinion contains indications relating to the following items:

[X]	Box No. I	Basis of the opinion
[ ]	Box No. II	Priority
[ ]	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
[X]	Box No. IV	Lack of unity of invention
[X]	Box No. V	Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
[ ]	Box No. VI	Certain documents cited
[ ]	Box No. VII	Certain defects in the international application
[X]	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU	Authorized Officer
AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. (02) 6285 3929	**VENKAT IYER** Telephone No. (02) 6283 2144

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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

   ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

   a. type of material

      ☐ a sequence listing

      ☐ table(s) related to the sequence listing

   b. format of material

      ☐ in written format

      ☐ in computer readable form

   c. time of filing/furnishing

      ☐ contained in the international application as filed.

      ☐ filed together with the international application in computer readable form.

      ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. IV Lack of unity of invention

1. [X] In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:

   [ ] paid additional fees

   [ ] paid additional fees under protest

   [X] not paid additional fees

2. [ ] This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is

   [ ] complied with

   [X] not complied with for the following reasons:

1. Claims 1-14, 20 are directed to a self latching device with a biasing means to bias the latch member into one of the latching and non-latching positions, and magnetic means for moving the latch member into the other of said latching and non-latching positions. It is considered that the use of a magnetic means to move the latching member against a bias comprises a first potentially "special technical feature".

2. Claims 15-19 are directed to a vertically sliding window sash with a self latching device, the latch member being engaged in a strike located in a portion of the frame adjacent the vertical side element of the sash, the latch having moving means for moving the latch member into engagement with the strike. It is considered that the latch engaging a strike located in the frame adjacent the vertical side of the sash comprises a second potentially "special technical feature".

Since the abovementioned groups of claims do not share either of the technical features identified, a "technical relationship" between the inventions, as defined in PCT rule 13.2 does not exist.

The feature common to all of the claims is simply a self latching latch with means for moving the latch member into engagement with the strike. However this common feature is generic in the art. Consequently the common feature does not constitute "a special technical feature" within the meaning of PCT Rule 13.2, second sentence, since it makes no contribution overt the prior art. Thus no technical relationship within the meaning of PCT Rule 13 between the different inventions can be seen. Therefore, a posteriori, the claims do not satisfy the requirement of unity of invention

4. Consequently, this opinion has been established in respect of the following parts of the international application:

   [ ] all parts

   [X] the parts relating to claims Nos. **1-14, 20**

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Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	**6, 9-12, 14, 20**	**YES**
	Claims	**1-5, 7-8, 13**	**NO**
Inventive step (IS)	Claims	**6, 9-12, 14, 20**	**YES**
	Claims	**1-5, 7-8, 13**	**NO**
Industrial applicability (IA)	Claims	**1-14, 20**	**YES**
	Claims		**NO**

2. Citations and explanations:

The following documents, as cited in the ISR, are considered to be the closest prior art:

D1: US 3794366 A (GRAHAM) 26 February 1974
D2: GB 2286627 A (TOTAL PRODUCT SALES LTD) 23 August 1995
D3: US 5362116 A (DOYLE et al.) 8 November 1994

A. NOVELTY: Claims 1-5, 7-8, 13

1. Claim 1 lacks novelty in the light of each of D1, D2 and D3 as follows:

1.1. A self latching device including a latch member: D1 see abstract, figure 1; D2 see figures 4-8; D3 see figures 1-3.

1.2. A moveable latch member engageable with a strike: D1 items 32 and 17 respectively; D2 items 3 and 5 respectively; D3 items 20 and 23 respectively.

1.3. Biasing means to bias the latch member into the non-latching position: D1 spring 53 (see column 4, line 20); D2 spring 12 (see page 4, line 15-21); D3 spring 21 (see column 4, line 25-27).

1.4. Magnetic means for moving the latch into the latching position: D1 permanent magnet 34 in the latch and permanent magnet 21 in the strike (see eg. Abstract, line 6-9); D2 permanent magnet 13 in the latch and permanent magnet 14 in the strike (see page 4, line 15-21); D3 permanent magnet 23 attracting magnetic latch bolt 47 (column 4, line 49-54).

2. Claims 2-5 lack novelty in the light of each of D1 and D2 as outlined above.

3. Claims 7-8 lack novelty in the light of each of D1 and D2 as follows:

3.1. D1: Magnet 21 can be considered a moving means for moving the movable magnet. Once it has moved the magnet 34 (and thus also the latch 32), the pawls 43 dog against the side of the latch housing 23 to retain it in the engaged position until the pawls are released by the arms 54 of pull back member 44 (see column 3, line 57 – column 4, line 2). Alternatively, pull back member 44 can be considered the means for moving the movable magnet. Once it has moved the magnet, and the door is open, the magnet is temporarily retained in its retracted position by magnetic attraction between the latch magnet and the wall of the housing and by the force of the spring (column 4, line 20-23).

3.2. D2: Handle 11 and coupling members (30, 25) act as moving means for moving the movable magnet (see figure 8). Once they have moved the magnet, and the door is open, the spring acts to temporarily retain the latch (and thus the magnet) in the retracted position.

Continued in Supplemental Box V

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 1 is not fully supported by the description. Claim 1 defines the option that there are biasing means to bias the latch member into the latching position with magnetic means for moving the latch member into the non-latching position. There is no embodiment for this configuration disclosed in the description.
2. Claim 4 is not clear as it appears that claim 4 should be appended to claims 2-3 since it refers to two magnets.
3. Claim 10 is not fully supported by the description. It defines that the slider mechanism moves the latch *against* the biasing effect of the biasing means. In the described embodiment, the biasing means biases the latch to the non-latched position. Thus, movement of the slider in fact acts to move the latch *in the same direction as* the biasing force, in order to overcome the magnetic force holding the latch in the latched state.
4. Claim 12 is not clear. It defines that the actuating element "is moveable in the direction in which a closure element ... is moveable toward an open position". However, the claim is directed to a self latching device with no defined mechanical relationship to the closure element, and so the actuating element is moveable in any direction that any closure element may open. This may be a wide variety of directions, and there is thus no clear scope.

Supplemental Box

In case **the space in any of the preceding boxes is not sufficient.**

Continuation of: **BOX V**

4. Claim 13 lacks novelty in the light of each of D1, D2 and D3 that disclose a self latching latch that would be suitable for mounting to the vertical side of a sliding sash window to lock to a strike in the frame.

B. INVENTIVE STEP: Claims 1-5, 7-8, 13

5. Claims 1-5, 7-8, 13 as above.

6. Claims 2-5, 7-8 lack an inventive step in the light of D3 as follows:

   6.1. The disclosure of D3 differs from claims 2-5, 7-8 only in that the head of the latch is magnetic rather than a permanent magnet. Given the problem of increasing the latching strength, it would be obvious to a skilled worker to replace the magnetic head of the latch with a permanent magnet to attract more powerfully to the fixed permanent magnet in the strike.

   6.2. Note that regarding claims 7-8, moving means for moving the moveable magnet is knob 19 (figure 1-3) and once it has moved the magnet, and the gate is open, the spring acts to temporarily retain the latch (and thus the magnet) in the retracted position.